

DANGWA TRANSPORTATION CO., INC., PETITIONER, VS. THE PUBLIC SERVICE COMMISSION, ET AL., RESPONDENTS.*G.R. No. L-16899 & L-17026. October 29, 1965*

Ponente: MAKALINTAL, J.

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Herein respondent Pangasinan Transportation Co., Inc. (PANTRANCO), was operating passenger buses between Baguio and Tarlac, via Kennon Road and Urdaneta, with authority from the Public Service Commission to make 5% round trips daily. On June 29, 1959 it applied for authority to extend the line southward to Manila, without any change in the number of trips and on condition that no passengers would be accepted between Tarlac and Manila. The reason for the request for extension was that respondent had many through passengers from Baguio to Manila and vice-versa and that these passengers' had to get off at respondent's station in Tarlac and transfer to other PANTRANCO buses coming from other places, thereby suffering inconvenience and delay.

Oppositions were filed by herein petitioner Dangwa Transportation Company, the Manila Railroad Company and the Estate of Buan, which was operating the Philippine Rabbit Bus Line. Petitioner claimed in its opposition that it was already rendering adequate service on the line applied for; that there was no demand for additional service between Tarlac and Manila; and that approval of the application would result in ruinous competition among the different operators concerned. Respondent presented its evidence at the hearing before the Commission on August 4, 1959. On the same date Dangwa Transportation filed its own application for twenty two (22) additional trips of its buses between Baguio and Manila. The hearing was continued on August 28, 1959, and then re-scheduled for December 18, on which date the Manila Railroad Company presented its evidence. The turn of petitioner was set for January 13, 1960. On January 6 it filed a motion for postponement of which no notice was given to respondent. At the hearing on January 13 petitioner did not appear, obviously assuming that the motion for postponement would be granted. The Commission, however, denied it in an order of the same date and considered the case submitted for decision on the evidence already presented. The Commission in effect that there was no need to receive petitioner's evidence because the reason for its opposition- that there was no need to extend respondent's Baguio-Tarlac service southward to Manila - was untenable in the light of petitioner's own application for twenty two (22) additional units on its own Baguio-Manila line. Petitioner moved for reconsideration and reopening, which was denied; and on January 28, 1960 the Commission decided the case in favor of respondent and approved the extension prayed for, the same to be in the nature of an express service, that is, non-stop between Tarlac and Manila.

The findings of the Commission on which the decision was based read as follows:

"Oral evidence as presented by applicant to show that many of its passengers from Baguio have Manila as their destination tot actually have to make a transfer at Tarlac because Applicant has no authority to proceed to Manila, that this transfer causes passengers much inconvenience specially when they travel with cargo; that applicant does not propose to operate locally between Tarlac and Manila because from Tarlac it will not pick nor drop Passengers and also its passengers from Manila to Baguio have to suffer the same inconvenience of

transferring to another bus at Tarlac; that the number of its through passengers from Baguio to Manila or from Manila to Baguio justify the extension of its line, and that public convenience will be promoted by authorizing the service proposed. The Manila Railroad Company presented as its witness Ignacio Lopez, Assistant Superintendent of the Auto Line at Baguio who testified as to the service now being rendered by the Benguet Auto Line from Baguio to Manila; that the company has enough service on the line and when there is need it dispatches additional trips, and that it is only during summer season beginning March up to May that there is a big demand for more buses on the line. This witness admitted, however, that there are occasions, not necessarily during summer, when it has to dispatch additional buses because of additional Passenger traffic.

After careful consideration of the record, we are satisfied is a preponderance of the evidence establishes that there is a need for allowing applicant to extend its Baguio-Tarlac line to Manila. The evidence clearly shows that applicant has plenty of passengers who need a direct service from Baguio to Manila or from Manila to Baguio, and that applicant's Baguio-Tarlac line does not enable applicant to render to these passengers the most convenient service possible. What is sought is merely to enable applicant's buses to proceed to Manila or Baguio from Tarlac and according to the application the service will be express from Tarlac to Manila so that there will be no reason why we should not allow this direct service between Manila and Baguio for the convenience of passengers considering that applicant has lines from Manila to Tarlac and from Tarlac to Baguio."

A motion to reconsider the aforesaid decision having been denied, petitioner elevated the case to this Court for review.

It is first contended that the Public Service Commission erroneously disregarded the doctrine that old and established operators should be given preference over new ones. We have examined the cases cited respectively by the parties concerning the scope and application of this doctrine, but have not found any one in particular wherein the facts are closely similar to those in the present case. *Batangas Transportation Co. vs. Orlanes*, 52 Phil. 455, is relied upon heavily by petitioner. This Court there reversed the Public Service Commission and, in applying the doctrine invoked by petitioner, said that the decision of the Commission improperly gave "an irregular operator who was last in the field, a preferential right over a regular operator, who was the first in the field." It should be noted that this Court took into consideration the fact that the regular operator referred to, the Batangas Transportation Company, "on its own volition and to meet the increase of its business, (had) applied to the . . . Commission for authority to increase the number of daily trips . . . thus showing a spirit that ought to be commended," and that it was only thereafter that Orlanes filed its own application. As much cannot be said in the present case. Unlike the Orlanes Transportation Company, respondent here was not an irregular operator. It already had its own line, with scheduled trips, between Baguio and Tarlac. And its application was not primarily intended to meet the demands of the general public but rather of the passengers who had given respondent their patronage and who undoubtedly would be benefited by the extension to and from Manila. It is important to note as clearly indicative of this fact, that the number of trips already authorized under respondent's old certificate was not increased and that the Tarlac-Manila run was in the nature of an express service. That there were many such passengers who preferred respondent's buses despite the delay and inconvenience occasioned by the transfer is shown substantially by the evidence of record; and that the volume of overall passenger traffic between Baguio and Manila was such as to justify increased service is shown by the application of petitioner itself for twenty two (22) additional units, although apparently the thought of meeting the augmented public need occurred to it only after respondent had applied for the authority challenged in this case.

Petitioner expresses its fear of ruinous competition which, to be sure, should be avoided even in our system of free enterprise. But there is no evidence whatsoever that such ruinous competition would come about as a result. The fear is at best speculative, not to say actually groundless, since, as already stated, the authority granted to respondent would benefit mainly those passengers who In any event had already given to it their regular

patronage.

As to the contention that petitioner was not given its day in Court, suffice it to say that petitioner itself was remiss in its duty concerning its motion for postponement of the trial scheduled for January 13, 1960, first, in not furnishing copy of said motion to respondent with notice of hearing thereof pursuant to Rule 26, section 4 and second, in assuming that the postponement would be granted by not appearing at the trial. Furthermore, as the Public Service Commission observed in its order denying said motion, there was no merit in the main ground upon which petitioner was opposing the application of respondent namely, that there was no need for the extension of the service applied for.

The decision appealed from is affirmed, with costs against petitioner.

Bengzon, C. J., Bautista Angelo, Concepcion, Dizon, Regala, Bengzon, J. P., and Zaldivar, JJ., concur.

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